## UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

## WANIGAS CREDIT UNION

and

Case 07-CA-118028

LOCAL 393, OFFICE AND PROFESSIONAL EMPLOYEES INTERNATIONAL UNION (OPEIU), AFL-CIO

## ORDER DENYING MOTION1

The Respondent's Motion to Dismiss and Motion for Summary Judgment is denied. The Respondent has failed to establish that there are no material issues of fact and that it is entitled to judgment as a matter of law.<sup>2</sup>

<sup>1</sup> The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Regarding the Respondent's motion for summary judgment with respect to the defense that it was independently required to report the employment terminations to its bonding agency, Member Miscimarra would issue a notice to show cause. The Respondent's motion identifies, among other things, relevant provisions of state law and the NCUA Examiners Guide, as well as supporting affidavits indicating that the bonding agency requested that the information be forwarded. The Region's response – stating that the Respondent's motion pertains to a "fact in contention" that is "best left to be resolved through testimony and examination in a hearing" – fails to identify any genuine issue as to specific disputed facts that would render inappropriate judgment in the Respondent's favor. Consistent with Board practice, therefore, Member Miscimarra would issue a notice to show cause and grant summary judgment in the Respondent's favor unless the Region identified specific disputed material facts or otherwise indicated with specificity why summary judgment is unwarranted based on this defense. Member Miscimarra agrees that the Respondent is not entitled to dismissal of the complaint on 10(b) grounds.

<sup>&</sup>lt;sup>2</sup> As to the Respondent's assertion that it was required to report certain information to its bonding agency, that requirement is not necessarily dispositive of whether the Respondent violated the Act as alleged. Rather, this case is more appropriately resolved on a fully developed record. We also note that the Respondent is free to raise with the administrative law judge any factual issues regarding the Sec. 10(b) issue and regarding its affirmative defenses on the merits of the allegations.

## Dated, Washington, D.C., June 17, 2014

MARK GASTON PEARCE, CHAIRMAN

PHILIP A. MISCIMARRA, MEMBER

NANCY SCHIFFER, MEMBER